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Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Strengthening United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity

Report of the Secretary-General

I. Introduction

1. In its resolutions 56/153 of 19 December 2001, 57/203 of 18 December 2002 and 58/168 of 22 December 2003, the General Assembly requested the Secretary-General to prepare a comprehensive report on the strengthening of United Nations action in the field of human rights through the promotion of international cooperation based on the principles of non-selectivity, impartiality and objectivity, taking into account the views of Member States. Moreover, the Assembly decided to continue consideration of the question at its fifty-ninth session under the item entitled "Human rights questions".

2. In compliance with paragraph 11 of those resolutions, the Secretary-General, in a note verbale dated 8 March 2004, invited Member States to present practical proposals and ideas that would contribute to the strengthening of United Nations action in the field of human rights through the promotion of international cooperation based on the principles of non-selectivity, impartiality and objectivity.

3. As of 23 August 2004, replies had been received from the Governments of Azerbaijan, Burundi and Cuba. On 19 May 2004, the Government of Ukraine reported that it had no information or materials to offer in response to the resolution. Additional replies received, if any, will be issued as addenda to the present report.

* A/59/150.

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II. Replies received from Governments

Azerbaijan

[Original: Russian]
[13 May 2004]

1. Proposals of the Azerbaijan Republic contributing to strengthening United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity are as follows:

(a) To shape public opinion in countries by organizing appropriate activities with a view to promoting human rights and a culture of peace and tolerance;

(b) To implement appropriate measures, including the organization of broad educational efforts at the international level for the resolution of national and international conflicts which are factors conducive to practices of slavery and racial discrimination;

(c) Coordination of efforts of international organizations to prevent policies of ethnic cleansing and discrimination on grounds of national origin and to restore the rights of persons who have become refugees and have been displaced as a result of the implementation of such policies;

(d) Monitoring in countries in situations of conflict in order to prevent the sale of organs and the subjection to torture of persons taken prisoner or hostage and forced into slavery on grounds of national origin or race;

(e) Coordination and strengthening of the action of international organizations to prevent all forms of exploitation of women and children taken prisoner or hostage, as well as trafficking in them on grounds of national origin or race;

(f) Appropriate monitoring activities by the United Nations in Member States with the aim of averting problems related to discrimination and punishing those responsible for it in accordance with the rules of international law;

(g) To hold conferences every two years at the national, regional and global levels, and to conduct regular monitoring activities in Member States with the participation of independent experts to further the development of international cooperation for the promotion and protection of human rights and fundamental freedoms;

(h) Pursuance by the United Nations of appropriate measures to punish, in accordance with the rules of international law, countries that have allowed genocide and crimes against humanity to be committed;

(i) Establishment of centres for cooperation between States and a network of observers to prevent problems related to discrimination;

(j) Definition of strategic goals and priorities for each region and the intensification of research and education in this field;

(k) To ensure implementation of international human rights instruments and to develop a legal mechanism to strengthen international oversight of these processes;

(l) Application of appropriate sanctions for non-compliance with United Nations conventions and resolutions to ensure that they are not merely of a declarative nature;

(m) Development and implementation, by the United Nations, of appropriate projects for judges and judicial personnel with the aim of guaranteeing a more effective and fair administration of justice, such as organizing training courses and seminars, sharing of information and experience, the preparation of manuals and other study materials for judges on the subject of the international instruments cited in the resolution and on the obligations deriving from international principles relating to the fair administration of justice, with a view to strengthening United Nations action in the field of human rights; and

(n) Coordination of the efforts of international organizations for the prevention of discrimination and the protection of human rights in the fight against terrorism.

Burundi

[Original: French]
[11 May 2004]

1. In accordance with the preamble to resolution 58/168 adopted by the General Assembly on strengthening United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity, the Government of Burundi regrets the fact that:

(a) The principle of equal rights and self-determination of peoples is not guaranteed for certain peoples. The Government of Burundi therefore proposes that the United Nations should make every effort to ensure that this right is guaranteed and, if necessary, punish those countries that do not guarantee it;

(b) International cooperation to promote and encourage respect for human rights and fundamental freedoms has deteriorated significantly. In this regard, the Government of Burundi proposes to the United Nations that fresh impetus should be given to international and bilateral cooperation between the Member States of the United Nations. This would ultimately allow amends to be made for some human rights violations;

(c) There is no harmonization of the ratification and implementation of the principles embodied in international law, especially the Charter of the United Nations, as well as the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant instruments. In order to achieve such harmonization, the Government of Burundi proposes that the United Nations should take all necessary measures to encourage every Member State to ratify these texts (a universal ratification of sorts) and, above all, to implement them. If necessary, binding follow-up machinery should be set up to ensure implementation by all Member States;

(d) A profound understanding of the broad range of problems existing in all societies and full respect for the political, economic and social situation in each one is rare. The world thus faces a number of problems, such as: (i) States standing in judgement over other States; and (ii) the collective responsibility of the international community and each of its Member States with regard to human rights. In this context, the Government of Burundi proposes that, in terms of competence, the United Nations should take precedence over individual Member States. In relations between and across States, there are some problems or, rather, some major challenges that are taking on increasingly alarming and dramatic proportions. Ultimately, these challenges could constitute one of the most odious manifestations of intolerance. They are: (i) Terrorism and the question of human rights and development; (ii) Human rights and conflict prevention; (iii) Economic and social rights and development; (iv) The increasing and stark disparities between standards of living at the State and individual levels; (v) Gender issues; and (vi) Action to combat impunity;

(e) The principle of non-selectivity, impartiality and objectivity is not enough in itself, given the complexity of the concept of human rights. The Government of Burundi proposes that the United Nations should combine this principle with the universal, indivisible, interdependent and interrelated nature of human rights. Concretely, this could lead to the establishment, through the United Nations, of a common foundation of universal and universally recognized human values that are respected by all.

2. To this end, the Government of Burundi proposes that the United Nations should help increase the capacity of States to meet their human rights obligations. In this way, cooperation between States and with the Office of the United Nations High Commissioner for Human Rights will be able to take on its true meaning. It is also necessary to ensure that the activities of OHCHR and the Security Council have tangible effects on the ground.

Cuba

[Original: Spanish]
[10 August 2004]

1. The Government of the Republic of Cuba considers that the only viable way to protect and promote all human rights for everyone is international cooperation, in which the United Nations should play a fundamental role under its mandate and as a matter of principle. Observance of the principles of universality, objectivity and non-selectivity, agreed at the World Conference on Human Rights, held at Vienna, is essential for achieving the objectives which the international community has set itself in this regard.

2. To develop and stimulate respect for human rights and fundamental freedoms by means of international cooperation requires an in-depth understanding of the great variety of problems arising in all societies and the acceptance of the heterogeneous nature of the historical and cultural features of each nation, as well as the absolute respect for the political, economic and social realities of each nation, in strict compliance with the purposes and principles of the Charter of the United Nations.

3. It is a matter of growing concern to Cuba that the functioning of the bodies and mechanisms of the United Nations system for the promotion and protection of human rights has regrettably been diverted from the ideal of international cooperation in this regard, and distorted by the intolerance and the punitive approaches which a group of developed nations is attempting to apply, precipitating an unstoppable and damaging spiral of confrontation.

4. The Commission on Human Rights and other international human rights bodies have become the hostages of the authoritarian practices of a group of countries of the industrialized North bent on imposing their points of view and their models on the rest of the developing countries, namely, the immense majority of mankind. Their only interests, masquerading as human rights concerns, are of course geopolitical.

5. They are constantly trying to establish a single pattern of democracy and governance as the yardstick for all nations, taking no account of their respective historical, cultural and religious characteristics. This is a model which does not encourage the realization of human rights for everyone, as the millions of individuals living in extreme poverty all over the world, not only lacking the most elementary rights but also unaware that they have rights, can testify.

6. Countries perceived as transgressing a model which they have not even universally accepted and which seriously jeopardizes the future of mankind are stigmatized; resolutions condemn them and punitive mechanisms are imposed on them, yet this essentially means resorting to the most despicable forms of pressure and blackmail.

7. For more than a decade now all the resolutions adopted by the Commission on Human Rights and the Third Committee of the General Assembly on country situations of mass and flagrant violations of human rights have exclusively targeted countries of the South and have been submitted in their immense majority by countries of the North, former colonial countries or new imperialist powers which continue to endeavour to perpetuate, conserve and create new and more sophisticated machinery of domination over their traditional areas of influence or impose new areas of domination.

8. In its more than 50 years of existence, the Commission on Human Rights has never been able to adopt one resolution condemning human rights violations in industrialized western countries. Nevertheless, visits by thematic rapporteurs to some of these countries, the conclusions and recommendations of the treaty bodies and the reports by human rights non-governmental organizations have contributed abundant evidence of violations of the rights of minorities, migrant workers, indigenous populations and deprived sectors of the countries of the developed North. The legalization of markedly racist and xenophobic political institutions and such aberrant practices as the use of the Internet to disseminate ideas of this nature or to promote child prostitution and pornography are only some of the manifestations of the serious human rights violations occurring in those countries on a daily basis.

9. In a context of objective and non-discriminatory cooperation, such situations would merit the adoption of more than one resolution and the establishment of special procedures for permanent monitoring by the Commission. Any explicit

censure, however, is blocked by pressures and threats, contributing in practice to the impunity of those responsible for such violations and to their perpetuation.

10. There are some very recent examples that continue to demonstrate the incapacity of the so-called international system for the promotion and protection of human rights to function on the basis of the principles of objectivity, impartiality and non-selectivity.

11. Questions have been increasingly raised about the situation of more than 600 people, including minors, who are being arbitrarily detained at the naval base in Guantánamo, a part of Cuban territory illegally occupied by the United States of America. Persisting there are some of the most abominable practices of massive and systematic violations of human rights, a pattern of flagrant contraventions of the international human rights instruments, international humanitarian law and international law. Last April, however, the Commission on Human Rights found itself unable to pass a draft resolution introduced by Cuba, entitled "Question of arbitrary detentions in the area of the United States naval base in Guantánamo", due to the brutal pressure and blackmail exerted by the United States, which led the western countries and some countries of Latin America to yield to its manoeuvres to stop action from being taken on the draft, a fact that laid bare the hypocrisy and double standards of those countries and their subordination to mean political interests.

12. The same Governments that present, co-sponsor and support condemnatory drafts against the countries of the South prevented the Commission from speaking out against the humiliating and inhuman situation to which several hundred people arbitrarily detained at the United States naval base in Guantánamo have been condemned.

13. More recently, during the substantive session of the Economic and Social Council, Cuba presented a new draft resolution, entitled "Question of the protection of human rights and fundamental freedoms in the context of international military operations launched to combat terrorism". The draft could not be adopted not only because of the strong pressure exerted by the United States, but also on account of the support from and the active opposition to the initiative waged by the European Union and other developed countries, with the object of maintaining the impunity covering the brutal violations of human rights perpetrated by their strategic ally.

14. Far from joining in and contributing to the efforts at negotiation promoted and called for by the Cuban delegation, once again the supposed "champions" of human rights — the industrialized powers of the North — dedicated themselves to fabricating an array of pretexts and false arguments to preserve the immunity from the application of the norms of international law of those responsible for scandalous acts of torture, forced disappearances, extrajudicial executions, arbitrary detentions and other grave violations of human rights committed in the context of the international military operations undertaken in the territories of Afghanistan and Iraq.

15. These examples are a further illustration of the double standards applied to the subject of human rights. The Commission on Human Rights, the Economic and Social Council, the General Assembly and the other bodies of the United Nations addressing the topic of human rights remain constrained by and have been turned

into mere tools serving the interests of domination of the major powers, a fact that accentuates the lack of credibility of the international human rights machinery.

16. Moreover, for some years now, the Commission on Human Rights has been adopting a resolution demonstrating a lack of balance in the geographical composition of the staff of the Office of the United Nations High Commissioner for Human Rights, owing to the predominance of project staff and consultants from Western Europe and North America, to the detriment of the other four regional groupings. This has resulted in the non-representation or inadequate representation of the majority of Member States, particularly from the three developing regions.

17. If the Secretariat staff do not have a full understanding of the range of different cultures, civilizations, religions and legal, political and philosophical systems, it is impossible for them to fulfil objectively and impartially the responsibilities which the international community has assigned to them in respect of supporting the machinery of the Commission on Human Rights in its work, in preparing reports and in providing technical advisory services to developing countries.

18. Economic, social and cultural rights and, in particular, the right to development still do not receive the attention agreed on in the Vienna consensus, and their full realization is held back as a result of the imposition of priorities and hegemonic interests by a few developed nations and hindered by the inadequacy of the resources which the countries of the North mobilize for that purpose.

19. Confrontation and punitive approaches to developing countries take precedence over dialogue and cooperation, while resources for activities to promote human rights, particularly those regarding technical cooperation, human rights education and education in general are very much reduced and subject to preconditions and specific purposes relating to the particular interests pursued by the donors.

20. An attempt is being made to replace cooperation and dialogue by the selective application of "humanitarian intervention", accompanied by the use of armed force in such cases as may be deemed advisable by the economic, political or military considerations of the major powers, even though doing so violates the principle of the right of peoples to self-determination.

21. The Government of the Republic of Cuba considers it to be its duty to explore these facts, in order to help make all Member States and the NGO community aware of the urgent need to institute genuine cooperation based on dialogue, as the Charter of the United Nations prescribes.

22. The universality of all human rights can be achieved only through total respect for the differences and individual characteristics of each people. Every attempt at imposition and domination hinders and holds back the full realization of all human rights for everyone and weakens and discredits the international system for the promotion and protection of human rights.

23. For Cuba, the letter and spirit of the Vienna Declaration and Programme of Action (A/CONF.157/24 (Part I), chap. III) continue to be the basis for its stance where human rights are concerned and reflect its unfailing commitment to their effective realization. It is impossible to conceive the promotion, protection and full

realization of all human rights and fundamental freedoms without the most stringent compliance with the principles of objectivity, impartiality and non-selectivity.